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10/797,847	03/10/2004	Anthony Levas	728-241	6373
66668 7590 04/01/2010 THE FARRELL LAW FIRM, P.C. - IBM 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER JACKSON, JAKIEDA R				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/797,847  
Filing Date: March 10, 2004  
Appellant(s): LEVAS ET AL.

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For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed December 23, 2009 appealing from the Office action mailed July 10, 2009.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

For the above reasons, it is believed that the rejections should be sustained.

20030155413      Kovesdi et al.      08-2003

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 5-9, 13-18 and 22-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovesdi et al. (PGPUB 2003/0155413), hereinafter referenced as Kovesdi in view of Willins et al. (PGPUB 2005/0108646), hereinafter referenced as Willins

Regarding **claims 1, 9 and 18**, Kovesdi discloses a method, system and computer program, hereinafter referenced as a method for presenting and browsing information, comprising the steps of:

classifying the information into a plurality of classes and sub-classes, each class having at least one sub-class (winter/summer; column 4, paragraph 0039 and column 5, paragraph 0054);

directional tagging said classified information with directional tags for spatial presentation (tags; column 4, paragraph 0039 and paragraphs 0044-0045 with column

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6, paragraph 0060-0062);

interactively controlling the presentation of the sub-classes (column 8, paragraph 0075 and column 13, paragraph 0095-0096).

receiving an input command from the user, said input command containing information identifying a position in space from which a class was presented (objects in the proximity/location determination; column 7, paragraph 0064 with paragraphs 0046 and 0089); and

presenting sub-class information of the class said input command identified (column 8, paragraph 0075 and column 13, paragraph 0095-0096), but does not specifically teach consulting the directional tags to audibly present each class from a different position in space based on the directional tags.

Willins discloses a method comprising consulting the directional tags to audibly present each class from a different position in space relative to a user (user's relative positioning) and based on the directional tags (directional device processing audio clips into spatial representations; paragraphs 0030-0036), in order to maintain a robust user experiences and to augment the user experience.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kovesdi's method wherein it is described above, to animate the experience of the user relative to an item/exhibit, enable the user to hear about an item or exhibit based on their location and field of view, personalize the audio presentation based on specific interest of individual and provide intuitive directional cues to bring attention to items of interest and to guide the user to a desired location

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(paragraphs 0005-0006).

Regarding **claims 5, 13 and 22**, Kovesdi discloses a method wherein the input command is received through a spoken command from the user (speech recognizer; column 6, paragraph 0059 with column 7, paragraph 0064).

Regarding **claims 6, 14 and 23**, Kovesdi discloses a method wherein the input command is received through an input device having means for determining a direction to which a user points (objects in the proximity/location determination; column 7, paragraph 0064 with GPS; column 4, paragraphs 0040-0041 and column 13, paragraph 0098).

Regarding **claims 7, 15 and 24**, Kovesdi discloses a method wherein the input command is received through an electrical or mechanical input device (inputting information; columns 4-5, paragraph 0046 and column 12, paragraph 0089).

Regarding **claims 8, 16 and 25**, Kovesdi discloses a method wherein the interactively controlling step includes the steps of:

receiving an input command from the user, said input command containing information identifying a class or sub-class (column 39, paragraphs 0039-;0040) and presenting further information of the class or sub-class said input command identified (objects in the proximity/location determination; column 7, paragraph 0064).

Regarding **claim 26**, Kovesdi discloses a method wherein the input command is received through at least one of a speech recognition system, an input device having means for determining a direction to which a user points and a standard computer input device (speech recognizer; column 6, paragraph 0059 with column 7, paragraph 0064).

**(10) Response to Argument**

Independent claims 1, 9 and 18 with dependent claims 5-8, 13-17 and 22-26

Appellants assert on pages 11, 15 and 19-20:

Kovesdi in view of Willins does not teach or disclose consulting the directional tags to audibly present each class from a different position in space relative to a user and based on the directional tags as recited in Claim 1, and thus Kovesdi in view of Willins cannot render the claims obvious.

Responding to Applicant's arguments that the combination of Kovedski and Willins produces audio from only a mobile device or headset, and not "from a different position in space relative to a user and based on directional tags", the Examiner maintains the position that was taken in the advisory action dated 12/23/2008.

As explained previously, Willins teaches that based on the geographical position of the user and user's orientation, the terminal plays an audio clip describing what the user is directly viewing. Further, as the user changes their head orientation and/or geographical position (position in space) the audio is continuously re-convolved with the respective impulse response function, taking the 3-D sound perceived by the user as continuously being emitted from the AEP (paragraphs 0020-0021 and 0033-0036). Willins further provides an example that if a user is walking through a trade show exhibit hall and looks at a new car, based on the geographical coordinates and head orientation (class), an audio clip is presented (information identifying position in space), which provides an overview of the car. As the user walks closer to the car, the audio clip is changed and begins to describe the car in detail (subclass)... (paragraph 0038). In other words, Willins teaches sound coordinating to a direction. Willins also provides

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another example in paragraph 0017 of the museum exhibit. A squawking sound appears to be emanating from a bird *on the user's left side* while a growl emanates from a bear as *perceived on the user's right*. This enhances the audio-visual experience by having sounds perceived as being emitted from stationary objects, moving objects or *any point in 3D space*. It is noted that Applicant's reproduced an image on page 9 of the Brief showing a user with various speaker emitting sound. Applicants are arguing more narrower than the claim recitation, in particular, explaining that the combination of the references produces audio from only a mobile device or headset. It seems that Applicant's are attempting to claim different speakers from different direction, rather than a 3D approach (which is read using the broadest reasonable interpretation of the current claim scope). Therefore, Appellants arguments have been considered, but are not persuasive.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

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Art Unit: 2626

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